

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2006 SEP 29 PM 4:07

DOCKET NO. CAA-08-2006-0004

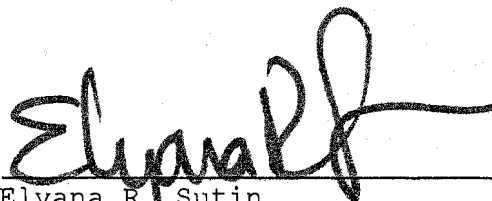
FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:)
)
Lohmiller & Company d/b/a)
Carrier West, Inc.) FINAL ORDER
4800 Osage Street)
Denver, CO 80221,)
)
Respondent.)

Pursuant to 40 C.F.R. § 22.18(b)(3), the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby ORDERED to comply with all of the terms of the Consent Agreement, effectively immediately upon receipt by Respondent of this Consent Agreement and Final Order.

9.29.06

Date



Elyana R. Sutin
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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FILED
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IN THE MATTER OF:)
)
Lohmiller & Company d/b/a)
Carrier West, Inc.) CONSENT AGREEMENT
4800 Osage Street)
Denver, CO 80221,)
)
Respondent.)

Complainant, United States Environmental Protection Agency-
Region 8, and Respondent, Lohmiller & Company d/b/a Carrier West,
Inc., by their undersigned representatives, hereby consent and agree
as follows:

1. On or about May 24, 2006, Complainant issued a Complaint to
Respondent in this matter alleging certain violations of the Clean Air
Act (CAA) and its implementing regulations. In the Complaint,
Complainant proposed a civil penalty of \$42,000.

2. Respondent admits the jurisdictional allegations, and neither
admits nor denies the remaining allegations, of the Complaint.
Respondent waives its right to contest any allegations at a hearing or
at a civil proceeding in connection with the enforcement of the Final
Order incorporating this Consent Agreement.

3. Within thirty (30) calendar days of receipt of a fully-
executed Consent Agreement in this matter, Respondent shall pay a
civil penalty in the amount of TWENTY-FIVE THOUSAND DOLLARS (\$25,000)
by remitting a cashier's or certified check for that amount, payable
to "Treasurer, United States of America," to:

Mellon Bank
EPA-Region 8
(Regional Hearing Clerk)
P.O. Box 360859M
Pittsburgh, PA 15251

The payment shall reference the name and address of Respondent and the EPA Docket Number of this action. A copy of the transmittal of payment shall be sent simultaneously to:

Jessie Goldfarb (8ENF-L)
Senior Enforcement Attorney
U.S. EPA-Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

4. If Respondent fails to pay the amount specified in Paragraph 3 by the due date specified in that Paragraph, the entire proposed penalty of FORTY-TWO THOUSAND DOLLARS (\$42,000) shall immediately become due and owing by Respondent. Furthermore, interest on the entire proposed penalty of FORTY-TWO THOUSAND DOLLARS (\$42,000) shall accrue at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. A late payment charge of ONE HUNDRED DOLLARS (\$100) shall be imposed upon Respondent after the first 30 days that a payment, or any portion thereof, is overdue, with an additional charge of FIFTY DOLLARS (\$50) imposed for each subsequent 30-day period until the payment due is received. In addition, a six per cent (6%) per annum penalty shall be applied on any principal amount not paid within 90 days of any installment due date.

5. Respondent understands that failure to comply with any of the terms of this Consent Agreement, upon incorporation into a Final Order, will constitute a breach of the Agreement and Order and may result in referral of the matter to the United States Department of

Justice for enforcement of the Agreement, and for such other relief as is deemed appropriate.

6. The parties agree to submit this Consent Agreement to the Regional Judicial Officer with a request that it be incorporated into a Final Order.

7. This Consent Agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full settlement of the specific violations alleged in the Complaint in this matter.

8. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with the CAA, its implementing regulations, and other environmental laws.

9. Penalties paid pursuant to this Consent Agreement are not deductible for federal tax purposes under 28 U.S.C. § 162(f).

10.. The parties agree to bear their own costs and attorney fees.

11. The undersigned representative of each party to this Consent Agreement certifies that he or she is duly authorized by the party whom he or she represents to enter into the terms and bind that party to the Consent Agreement.

U.S. ENVIRONMENTAL PROTECTION AGENCY-
REGION 8, Complainant

9/29/06
Date

Martin Hestmark
Martin Hestmark, Director
Technical Enforcement Program
Office of Enforcement, Compliance, and
Environmental Justice

26 September 2006 David J. Janik
Date
David J. Janik
Supervisory Enforcement Attorney
Legal Enforcement Program
Office of Enforcement, Compliance, and
Environmental Justice

LOHMILLER & COMPANY D/B/A
CARRIER WEST, INC., Respondent.

Date

Charles Lohmiller
President

09/28/2006 11:25 FAX 3033126853

EPA LEGAL

FAX NO. 303 820 2332 NO. 0247 P. 05

005

**U.S. ENVIRONMENTAL PROTECTION AGENCY-
REGION 8, Complainant**

Date

Martin Bestmark, Director
Technical Enforcement Program
Office of Enforcement, Compliance, and
Environmental Justice

Date

David J. Janik
Supervisory Enforcement Attorney
Legal Enforcement Program
Office of Enforcement, Compliance, and
Environmental Justice

LOHMILLER & COMPANY D/B/A
CARRIER WEST, INC., Respondent.

Date

9/29/06


Charles Lohmiller
President


CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER** in the matter of **LOHMILLER & COMPANY d/b/a CARRIER WEST, INC.; DOCKET NO.: CAA-08-2006-0004** was filed with the Regional Hearing Clerk was filed on September 29, 2006.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Jessie Goldfarb, Enforcement Attorney, U. S. EPA – Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on September 29, 2006, to:

Charles Lohmiller, President
Lohmiller & Company d/b/a Carrier West, Inc.
4800 Osage Street
Denver, CO 80221

September 29, 2006



Tina Artemis
Regional Hearing Clerk

